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Attorney Docket No. 355492-2202
Application Serial No. 09/954,789

Remarks

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 16-31 and 33-44 are pending in this application following entry of the present Amendment. Claims 1-15 and 17-19 were previously cancelled. Claim 16 is amended to introduce the limitations present in claim 32 and to clarify that the aneurysm to be treated using the kit is an abdominal aortic aneurysm. Claim 32 is cancelled herein. New claims 33-44 are added. These claims are directed to the kit of parts recited in claim 16 with the addition of a water soluble contrast agent capable of visualizing an endoleak site which is recited in Applicant's specification at, for example, page 11, lines 15-20; page 20, lines 6-10; and in Examples 2 and 3. No new matter is added through these amendments and additions.

Status of Application

The present application is on remand from the Board of Patent Appeals and Interferences (Appeal No. 2006-2879) to Examiner Wang for further consideration. The Board confirmed that the pending claims of the present application are entitled to a priority date of March 19, 1999 and overturned the outstanding rejection under 35 U.S.C. §103(a) which relied, in part, on art that was published after this priority date. The Board remanded the application to Examiner Wang and requested that he consider additional issues regarding the nonobviousness of the claims.

Substance of Interview

Applicant wishes to thank Examiner Wang for granting a personal interview to Applicant's representatives Gerald F. Swiss and Traci H. Ropp on January 19, 2007. All pending claims were discussed during the interview. The Examiner's summary of the interview made of record on January 19, 2007 on form PTOL - 413 is accurate. The present summary is provided in order to further elaborate on the discussion. During the interview, Applicant's representatives explained that the endovascular prosthesis recited in the pending claims is a *defective* stent graft

which defects arises from either incomplete sealing at the interface of the aortic wall and the end of the prosthesis or from defects within the endovascular prosthesis. Applicant's representatives further explained that the focus placed on the functional equivalency between stents and stent grafts is not relevant to the patentability of the pending claims. The fact that the prosthesis is defective is evidenced by the formation of endoleaks that occur after the endovascular prosthesis is delivered to the site of an abdominal aortic aneurysms. A non-defective endovascular prosthesis would seal off the aneurysm without the formation of endoleaks. The kit claimed in the present application is designed to provide the components useful in repairing the endoleaks associated with the defective endovascular prosthesis. The prior art does not teach or suggest a kit comprising a defective endovascular prosthesis, such as a defective stent graft, used to treat abdominal aortic aneurysms.

As proposed during the interview, claim 16 has been amended to more clearly define this aspect of the invention. Specifically, claim 16 has been amended to recite that the endoleaks arise from a defective endovascular prosthesis, that defect arising from incomplete sealing at the interface of the aortic wall and the end of the prosthesis or from defects within the endovascular prosthesis itself.

Claim amendments and Additions

Claim 16, as amended, recites a kit of parts for use in sealing endoleaks arising from endovascular repair of an aneurysm which comprises:

- (a) a fluid composition which forms a coherent mass in the presence of blood which mass adheres to the vascular surface and/or the surface of the endovascular prosthesis wherein said fluid composition comprises a biocompatible solvent and a biocompatible polymer;
- (b) a catheter suitable for delivering the fluid composition to an endoleak site formed from endovascular repair of an abdominal aortic aneurysm;
- (c) a catheter suitable for delivering an endovascular prosthesis to the aneurysm; and
- (d) an endovascular prosthesis comprising a stent graft capable of inhibiting but not completely arresting blood flow into the abdominal aortic aneurysm due to the presence of one or

more endoleaks arising from incomplete sealing at the interface of the aortic wall and the end of the prosthesis or from defects within the endovascular prosthesis.

The newly introduced language (indicated by underlined text) further defines the kit as comprising a endovascular prosthesis, a stent graft, that is defective, the defect arising from incomplete sealing at the interface of the aortic wall and the end of the prosthesis or from defects within the endovascular prosthesis.

Applicant has added an independent claim, claim 33, which recites the limitations of claim 16 with the additional element of a water soluble contrast agent capable of visualizing the site of an endoleak. Dependent claims 34-44 are similar to claims dependent on claim 16.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

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Respectfully submitted,

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